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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,784	10/19/2001	Yakov Kamen	ISURFTV147	5676

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EXAMINER

CHANG, SHIRLEY

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/029,784	KAMEN, YAKOV	
	Examiner	Art Unit	
	Shirley Chang	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/31/02</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim(s) 1-18 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Bates et al. (6721953).

As to claims 1, 7, and 13, Bates discloses:

A system which implements a method using a computer readable medium, the system comprising: a first unit to add to a first set of broadcasted programs a second set of broadcasted programs, the second set of broadcasted programs including broadcasted programs viewed by a viewer for a period of time at least equal to a first threshold (a first computational "unit" adds the programs based upon a program viewed for a period of time; there exists a 'first set' since block 142 determines whether 'one or more records already exist in the favorite program table matching the current program information for the program currently being viewed' [7, 60-67] to [8, 1-5]);

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a second unit coupled with the first unit to remove from the first set of broadcasted programs a third set of broadcasted programs, the third set of broadcasted programs including broadcasted programs not viewed by a viewer for a period of time at least equal to a second threshold (a second computational "unit" removes the programs entries with lowest counts are removed based on 'other criteria (e.g., accumulated viewing time)' so as to maintain a fixed number of counts [8, 19-33]).

As to claims 2, 8, and 14, Bates discloses:

wherein the first unit is further to add to the first set of broadcasted programs a fourth set of broadcasted programs selected by the viewer (by watching a channel past a threshold, the user is effectively "selecting" a program to be added as a "favorite" [7, 60-67] to [8, 1-5]).

As to claims 3, 9, and 15, Bates discloses:

the first unit is further to update the first threshold and the second threshold upon the viewer indicating dissatisfaction (Increasing or decreasing the length of time a user has to view a program before it is automatically determined to be a favorite impacts the first and second threshold; by changing the threshold, an updated or new criteria can change the criteria by which a program is added upon viewer dissatisfaction.

Furthermore, altering the threshold effectively determines which programs shall be removed, should there be a 'fixed maximum size' for the program table [8, 1-5]).

As to claim 4, 10, and 16, Bates discloses:

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the first unit is further to update the first threshold and the second threshold upon the viewer returning to a schedule list more than a predetermined number of times (when a viewer selects a channel through the schedule list, [11, 55-67] to [12, 1-10] a channel can be viewed past a designated threshold, whereby the user is effectively “selecting” a program to be added or updated as a “favorite” [7, 60-67] to [8, 1-5]).

As to claim 5, 11, and 17, Bates discloses:

the first unit is further to set the first threshold to be a first percentage of a period of time that a channel was viewed, and to set the second threshold to be a second percentage of the period of time that the channel was viewed (since table 50 may be kept at a fixed size, and lowest counts can be deleted, then the threshold is effectively a percentage. For example, if the lowest entry is to be removed, anything viewed less than 100 percent of the second to lowest entry would be removed [8, 19-33]).

As to claim 6, 12, and 18, Bates discloses:

the first unit is further to add to the first set of broadcasted programs a fifth set of broadcasted programs, the fifth set of broadcasted programs including broadcasted programs selected by a viewer a number of times at least equal to a third threshold ([7, 60-67] to [8, 1-5]; additional time/viewing time [8, 19-33] and [7, 60-67] to [8, 1-5] can in conjunction, be the threshold by which to add/remove programs);

wherein the second unit is further to remove from the first set of broadcasted programs a sixth set of broadcasted programs, the sixth set of broadcasted programs including broadcasted programs not selected by a viewer a number of times at least equal to a

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fourth threshold (entries with lowest counts are removed [8, 19-33]; additional time/viewing time [8, 19-33] and [7, 60-67] to [8, 1-5] can in conjunction, be the threshold by which to add/remove programs).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- Bedard (5801747) is directed toward creating a television viewer profile.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Chang whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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